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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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Application Number: 10/524,793  
Filed: October 20, 2005  
Applicant(s): Kenneth M. Evans  
Title: High Resolution Flow Cytometer  
Group Art Unit: 1797  
Examiner: Rebecca M. Fritchman  
Assignee: XY, Inc.  
Attorney Docket: XY-Hypodermic-USNP  
Customer No.: 28424  
Confirmation No.: 8305

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**RESPONSE AND REQUEST FOR RECONSIDERATION (37 C.F.R. § 1.111)**

**I. INTRODUCTORY REMARKS:**

This Response and Request for Reconsideration replies to the Office Action dated August 24, 2009. A shortened statutory period of 3 months has been set, making a response to this action due on or by November 24, 2009. This response is made in accordance with 37 C.F.R. § 1.121 using the format with each heading beginning on a separate page as follows:

This Request for Continued Examination is appropriate because:

- i) this request is made prior to payment of the issue fee [37 CFR 1.114 (a)(1)];
- ii) the application has not been abandoned;
- iii) no notice of appeal has been filed [37 CFR 1.114 (a)(3)];
- iv) prosecution on the application is closed by either a final action or issuance of a notice of allowance [37 CFR 1.114 (b)];
- v) this application is not a provisional application [37 CFR 1.114 (e)(1)];
- vi) this is a not utility patent application filed before June 8, 1995 [37 CFR 1.114 (e)(2)];
- vii) this application is not an international application filed under 35 U.S.C. 363 before June 8, 1995 [37 CFR 1.114 (e)(3)];

- viii) this application is not a design patent application [37 CFR 1.114 (e)(4)]; and
- ix) this is not a patent under reexamination [37 CFR 1.114 (e)(5)].

This response is made in accordance with 37 C.F.R. 1.121 using the format with each heading beginning on a separate page as follows:

**Amendments to the Specification** begin on page 3 of this reply;

**Amendments to the Claims** begins on page 4 of this reply;

**Remarks** begin on page 10 of this paper.